

# COMBINED DECLARATION/POWER OF ATTORNEY FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: RF DIATHERMY AND FARADIC MUSCLE STIMULATION TREATMENT the specification of which (check one):

\_\_\_\_\_ is attached hereto

X was filed on 03/24/98  
as U.S. Application  
Serial No. 09/046,856

\_\_\_\_\_ and was amended on (if  
applicable) \_\_\_\_\_

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, §1.56(a).

I hereby claim foreign priority benefit(s) under Title 35, United States Code §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application(s) for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority Claimed	
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	_____ YES	_____ NO
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	_____ YES	_____ NO
_____ (Number)	_____ (Country)	_____ (Day/Month/Year Filed)	_____ YES	_____ NO

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56(a) which occurred

between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status)(patented,pending, abandoned)
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_____ (Application Serial No.)	_____ (Filing Date)	_____ (Status) (patented, pending, abandoned)
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**POWER OF ATTORNEY:** As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

David M. Crompton, Reg. No. 36,772;  
Glenn M. Seager, Reg. No. 36,926;  
Brian N. Tufte, Reg. No. 38,638;  
Craig F. Taylor, Reg. No. 40,199; and  
David Spevack, Reg. No. 24,743.

Send correspondence to:

Glenn M. Seager  
CROMPTON, SEAGER & TUFTE, LLC  
331 Second Avenue South  
Suite 895  
Minneapolis, Minnesota 55401-2246  
Tel: (612) 677-9050

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon, I further declare that I understand the content of this declaration.

Full name of sole or first inventor: James B. Bingham

Inventor's Signature: James B. Bingham Date: 9/21/98

Residence: New Braunfels, Texas Citizenship: U.S.A.

Post Office Address: 2405 Interstate Highway 35 West, New Braunfels, Texas 78130

Full name of second or joint inventor: Richard G. Olsen

Inventor's Signature: Richard G. Olsen Date: 9/23/98

Residence: Pensacola, Florida Citizenship: U.S.A.

Post Office Address: 1503 North Baylen Street, Pensacola, Florida 32501

#### **1.56 Duty to disclose information material to patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application:

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

James B. Bingham

Richard G. Olsen

Serial No.: 09/616,769

Filed: July 14, 2000

For: RF DIATHERMY AND FARADIC  
MUSCLE STIMULATION TREATMENT

Group Art Unit: 3762

Examiner: Jastrzab, Jeffrey R.

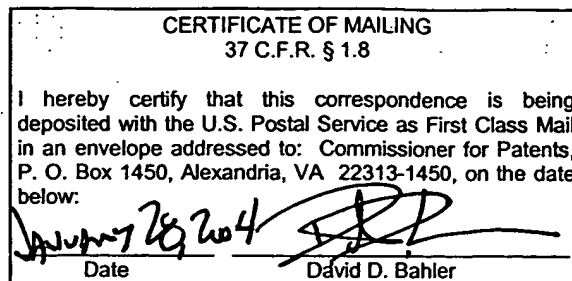
Atty. Dkt. No.: TWAV:004USD1  
(Formerly 1007.1101102)

**REVOCATION AND SUBSTITUTE POWER OF ATTORNEY  
PURSUANT TO 37 C.F.R. §§ 3.71 and 3.73(b)  
AND CHANGE OF CORRESPONDENCE ADDRESS**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned, being co-assignees of record of the entire interest in the above-identified application by virtue of assignments recorded in the United States Patent and Trademark Office as set forth on the attached Power of Attorney, hereby revokes all prior powers of attorney and substitutes a new power of attorney with a corresponding change of correspondence address.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

CUSTOMER NO. 32,425

**REVOCATION AND SUBSTITUTE POWER OF ATTORNEY**  
**PURSUANT TO 37 C.F.R. §§ 3.71 and 3.73(b)**  
**AND CHANGE OF CORRESPONDENCE ADDRESS**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

We, Tim Herring and Thomas McDonnell, certify that EHTI Medical Corporation and the United States of America, as represented by the Secretary of the Navy, are the co-assignees of the entire interest in each of the below-referenced U.S. patent applications. Documentary evidence of chain of title from the original owners to EHTI Medical Corporation and to the United States of America, as represented by the Secretary of the Navy, has been filed with and recorded by the United States Patent and Trademark Office at each of the below-referenced Reel and Frame numbers.

The evidentiary documents referred to in the instant Revocation and Power of Attorney have been reviewed by the undersigned; and it is certified that, to the best of the knowledge and belief of Tim Herring and Thomas McDonnell, title is in EHTI Medical Corporation and the United States of America, as represented by the Secretary of the Navy as co-assignees.

Alias	Serial No. or Patent No.	Filing Date or Issue Date	Recordation Dates	Reel/Frame
TWAV:004US	6,094,599	July 25, 2000	October 20, 1998	009535/0177
			October 12, 2000	011044/0181
TWAV:004USD1	09/616,769	July 14, 2000	October 20, 1998	009535/0177
			October 12, 2000	011044/0181

We hereby revoke all powers of attorney heretofore given and hereby appoint:

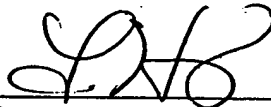
Louis T. Pirkey, Reg. No. 22,393; David D. Bahler, Reg. No. 30,932; Christopher R. Benson, Reg. No. 31,941; David L. Parker, Reg. No. 32,165; Richard J. Groos, Reg. No. 32,231; William G. Barber, Reg. No. 33,154; Michael S. Metteauer, Reg. No. 34,875; Jeffrey D. Mills, Reg. No. 39,954; Mark B. Wilson, Reg. No. 37,259; Steven L. Highlander, Reg. No. 37,642; Stephen P. Meleen, Reg. No. 40,724; Robert E. Hanson, Reg. No. 42,628; Michael C. Barrett, Reg. No. 44,523; Mark T. Garrett, Reg. No. 44,699; Gina N. Shishima, Reg. No. 45,104; Charles P. Landrum, Reg. No. 46,855; Michael R. Krawzsenek, Reg. No. 51,898; Sharon A. Beresford, Reg. No. 52,615; and Monica A. De La Paz, Reg. No. 54,662,

as the principal attorneys or agents, with full power of substitution, association, and revocation to prosecute said applications, to transact all business in the Patent and Trademark Office connected therewith, and to receive the letters patent therefor.

Please direct all future communications regarding these applications as follows:

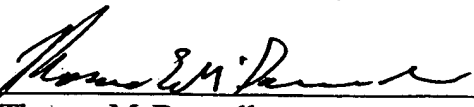
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ASSIGNEE:  
EHTI Medical Corporation

By:   
Tim Herring  
President

Date: JAN 6, 2004

ASSIGNEE:  
The United States of America, as Represented  
by the Secretary of the Navy

By:   
Thomas McDonnell  
Patent Counsel of the Navy

Date: 13 Jan 04